

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

KOFI JOHNSON,

Plaintiff-Appellant,

v

TYSON KELLEY,

Defendant,

and

COUNTY OF WAYNE and WAYNE COUNTY  
TREASURER,

Defendants-Appellees.

---

UNPUBLISHED  
December 19, 2017

No. 335909  
Wayne Circuit Court  
LC No. 16-001644-CZ

Before: METER, P.J., and SAWYER and SHAPIRO, JJ.

PER CURIAM.

Plaintiff appeals from an order of the circuit court granting summary disposition in favor of defendants on plaintiff's complaint to quiet title following a tax foreclosure action. We affirm.

Plaintiff owned property located on Greeley Street in Detroit. Due to unpaid property taxes, the property was subject to foreclosure in 2015 for unpaid taxes in 2011 and 2012. Plaintiff claims that he did not receive notice of the foreclosure proceedings before it was too late to pay the back taxes and prevent the foreclosure or to redeem the property after foreclosure. Plaintiff claims that the failure to provide him with notice denied him due process. The trial court disagreed and granted summary disposition against plaintiff.

Defendant Treasurer maintains that it provided adequate notice to plaintiff by multiple mailings to the Greeley Street address, posting notice on the property, and publishing in the Detroit Legal News. Plaintiff responds that he failed to receive the mailed notices because he was no longer living at the Greeley Street house and that the publication in the Detroit Legal News was inadequate to give him notice because he was not residing in Wayne County. As for the posted notice, he simply denies that the photograph accompanying the affidavit by the person

who posted the notice shows a notice having been posted. We find plaintiff's response to be unpersuasive.

We review the trial court's decision to grant or deny summary disposition de novo. *Elba Twp v Gratiot Co Drain Comm'r*, 493 Mich 265, 277; 831 NW2d 204 (2014). Defendant Treasurer was obligated to send notice to an address "reasonably calculated to apprise those owners of a property interest" of the proceedings. MCL 211.78i(2). Specifically, MCL 211.78i provides in pertinent part as follows:

(1) Not later than May 1 immediately succeeding the forfeiture of property to the county treasurer under section 78g, the foreclosing governmental unit shall initiate a search of records identified in subsection (6) to identify the owners of a property interest in the property who are entitled to notice under this section of the show cause hearing under section 78j and the foreclosure hearing under section 78k. The foreclosing governmental unit may enter into a contract with 1 or more authorized representatives to perform a title search or may request from 1 or more authorized representatives another title search product to identify the owners of a property interest in the property as required under this subsection or to perform other functions required for the collection of delinquent taxes under this act.

(2) After conducting the search of records under subsection (1), the foreclosing governmental unit or its authorized representative shall determine the address reasonably calculated to apprise those owners of a property interest of the show cause hearing under section 78j and the foreclosure hearing under section 78k and shall send notice of the show cause hearing under section 78j and the foreclosure hearing under section 78k to those owners, and to a person entitled to notice of the return of delinquent taxes under section 78a(4), by certified mail, return receipt requested, not less than 30 days before the show cause hearing.

\* \* \*

(6) The owner of a property interest is entitled to notice under this section of the show cause hearing under section 78j and the foreclosure hearing under section 78k if that owner's interest was identifiable by reference to any of the following sources before the date that the county treasurer records the certificate required under section 78g(2):

- (a) Land title records in the office of the county register of deeds.
- (b) Tax records in the office of the county treasurer.
- (c) Tax records in the office of the local assessor.
- (d) Tax records in the office of the local treasurer.

Nothing in the statute requires a broader search to find the property owner, such as plaintiff's suggestion that defendant Treasurer should have consulted the Friend of the Court. As the Michigan Supreme Court discussed in *In re Petition by Wayne Co Treasurer*, 478 Mich 1; 732

NW2d 458 (2007),<sup>1</sup> while due process requires reasonable notice, it does not necessarily require actual notice:

The United States Supreme Court recently has held that “due process requires the government to provide ‘notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.’ “ Furthermore, “ ‘when notice is a person’s due ... [t]he means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it.’ “ However, “[d]ue process does not require that a property owner receive *actual notice* before the government may take his property.” [Quoting *Jones v Flowers*, 547 US 220, 226; 126 S Ct 1708; 164 L Ed 2d 415 (2006), which itself quoted *Mullane v Central Hanover Bank & Trust Co*, 339 US 306, 314; 70 S Ct 652; 94 L Ed 865 (1950). Footnotes omitted.]

As defendant Treasurer points out, plaintiff could have easily received the tax bills and the notices had he kept his address up-to-date with the taxing authority. Similarly, because defendant Treasurer was not apprised of plaintiff’s current address, there would be no reason to publish the notice in any county other than where the property was located.

As for the argument that defendant Treasurer should have consulted other records, such as the Friend of the Court, *Jones*, 547 US at 236, points out that there is no obligation to engage in an “open-ended search for a new address” in order to locate the property owner. Finally, we are unpersuaded by plaintiff’s argument that the notice was not properly posted. Plaintiff argues that the photograph of the house does not actually show a notice being posted. While we would concede that the quality of the photograph does not lend itself to clearly establishing that what was posted was the notice, the photograph does reflect that something was posted on the door. And plaintiff offers no evidence to contradict the affidavit that the proper notice is what was posted on the door.

For these reasons, we conclude that plaintiff was afforded the process to which he was due and the trial court did not err in granting summary disposition to defendants.

Affirmed. Defendants may tax costs.

/s/ Patrick M. Meter  
/s/ David H. Sawyer  
/s/ Douglas B. Shapiro

---

<sup>1</sup> This case is commonly referred to as the *Perfecting Church* case.